

The enterprise zone building materials exemption allows retailers located in the municipality or unincorporated area of a county that established an enterprise zone to make tax-free sales of building materials that will be incorporated into real estate located in the enterprise zone. See 86 Ill. Adm. Code 130.1951. (This is a GIL).

October 5, 2000

Dear Xxxxx:

This letter is in response to your letter that was received in our office on August 22, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See, 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at <http://www.revenue.state.il.us/legalinformation/regs/part1200>).

In your letter, you have stated and made inquiry as follows:

I am writing you in behalf of COMPANY who is building a motel in CITY, Illinois. The project is within the boundaries of the NAME County Enterprise Zone.

We are acting as agent for COMPANY. Inasmuch as this is a motel, we are unsure of the ruling as to the eligibility of the listed items for Tax Exemption. The regulations specify that, in order to qualify under the statutes, equipment/furnishings must be attached to the building, or so integral to the structure that they would definitely be required as part and parcel of any sale of the structure. Many of the items, i.e. headboards, mirrors, pictures, etc., are fixed to the wall or hard wired in such a fashion that their removal would severely denigrate the value of the building.

Our research with the ASSOCIATION revealed that in excess of 99% of all motel sales include the furnishings and decoration and, therefore, seem to be an integral part of the structure.

Many prior private rulings from your office have relied on the fact that the improvements were integral and therefore necessary for any commercially reasonable sale of the structure.

We realize that each ruling is predicated on the individual facts and circumstances and not reliant on any prior situation. The items are:

- 1.) Room furnishings; including, headboards, credenzas, tables, mirrors, lamps, chairs, pictures, and TV's.
- 2.) Valances, draperies, rods, wall coverings, carpet, paint.
- 3.) Mattresses.

October 5, 2000

We also realize that you have an extremely heavy work load, but we would appreciate a prompt reply at your earliest convenience.

Enclosed is a copy of 86 Ill. Adm. Code 130.1951 concerning Enterprise Zones. The enterprise zone building materials exemption allows retailers located in the municipality or unincorporated area of a county that established an enterprise zone to make tax-free sales of building materials that will be incorporated into real estate located in the enterprise zone.

You state in your inquiry that you represent the builder of a motel and you list specific items and ask whether each is exempt under the enterprise zone building materials exemption. We assume for the purposes of this letter that all materials are purchased from retailers located in the jurisdiction that created the enterprise zone into which the materials will be incorporated, and that any additional local enterprise zone requirements are met.

Please be advised that the only items you list that could qualify for this exemption are carpet and paint. To be exempt, the carpeting would have to be permanently affixed to the structure as described in Section 130.1951(a)(7)(H). Please note that floor coverings that are area rugs or that are attached to the structure using two-sided tape do not qualify for the exemption, 86 Ill. Adm. Code 130.1951(a)(8)(C).

The other items you list would not qualify for the exemption because they remain tangible personal property after installation. Items such as headboards, mirrors, or pictures that are attached to the wall by the use of brackets or otherwise are considered to remain tangible personal property because they can be removed and used elsewhere. The practice that some sales of motels may include such furnishings does not change the fact that they remain tangible personal property after installation.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk
Enc.